

**REMARKS/ARGUMENTS**

**STATUS OF CLAIMS**

In response to the Office Action dated January 26, 2007, claims 1, 2, 5 and 6 have been amended. Claims 1-7 are now pending in this application. No new matter has been added.

Dependent claims 3, 4 and 7 have been amended to begin with “The” instead of “A”. The claim amendments are non-narrowing claim amendments.

**REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103**

I. Claims 1, 3, 5 and 7 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Hyodo et al. (USPN 6,952,225).

To expedite prosecution, independent claims 1 and 5 have been amended to delineate, *inter alia*:

a solid-state imaging element having a plurality of pixels for subdividing incident light from a photographic subject into a plurality of color signals so as to image the photographic subject, the solid-state imaging element including two sorts of pixels whose spectral sensitivities are different from each other as said pixel ***for detecting one color*** among said plurality of color signals...

That is, in amended independent claims 1 and 5, the solid-state imaging element includes two sorts of pixels whose spectral sensitivities are different from each other as the pixel ***for detecting one color*** among said plurality of color signal. This corresponds to, for example G1 and G2. However, as described at paragraph [0080], other colors than

green can be used for the one color. Independent claim 1 has been further amended to include the word “comprising” immediately after “...imaging apparatus” in line 1.

The Examiner refers to pixels 50R and 50G of Hyodo et al. as corresponding to *“two sorts of pixels whose spectral sensitivities are different from each other as said pixel for detecting at least one color among said plurality of color signals”*. However, 50R and 50G are used to detect two (2) colors, not one (1) as now recited in amended independent claim 1.

There is no disclosure or suggestion in Hyodo et al. that a solid-state imaging element includes two sorts of pixels whose spectral sensitivities are different from each other as the pixel *for detecting one color* among the plurality of color signals. Consequently, amended independent claims 1 and 5, as well as dependent claims 3 and 7 are patentable over Hyodo et al. Therefore, the allowance of claims 1, 3, 5 and 7, as amended, is respectfully solicited.

**II.** Claims 2, 4 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyodo et al. in view of Suga (USPN 5,198,890).

The rejections are respectfully traversed.

Hyodo et al. issued October 4, 2005 while the present application was filed November 24, 2003. Consequently, Hyodo et al. qualifies as prior art only under 35 U.S.C. § 102(e), as noted in the Examiner’s rejection of claims 1, 3, 5 and 7. Furthermore, Hyodo et al. is assigned to Fuji Photo Film Co., Ltd. (see item (73) on the front of Hyodo et al.), as is the present application (see the assignment recorded at Reel 014742 Frame 0689).

35 U.S.C. § 103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Consequently, Hyodo et al. cannot be used to preclude patentability of claims 2, 4 and 6 under 35 U.S.C. § 103.

By this response, claims 2 and 6 have been amended to be in independent form including all the limitations of their respective base claim. Consequently, the allowance of claims 2, 4 and 6, as amended, is respectfully solicited.

## **CONCLUSION**

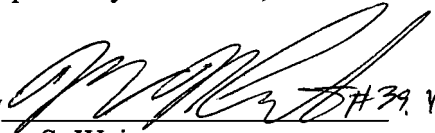
In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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